



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,589	05/14/2001	Steven Rohn Wagoner	021238-458	7149

7590 09/23/2003

Peter K. Skiff
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

[REDACTED] EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
1731	

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/853,589	WAGONER, STEVEN ROHN
	Examiner	Art Unit
	Dionne A. Walls	1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 July 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFeuille (US. Pat. No. 1,023,157) in view of DeLemme (US. Pat. No. 1,995,966).

LaFeuille discloses all that is recited in the claims (see pages 1,2 and fig. 2) except it may not state that the rotary drier, disclosed in its invention, may also be used to humidify material, by delivering to said material moisture. However, it's known, that rotary driers can also be utilized as "conditioning" machines which, generally, subject substances to the action of fluids, liquid or gas, in order to dry or humidify materials. Such an apparatus is disclosed in DeLemme (see entire document). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize the apparatus of LaFeuille to perform the method of humidifying materials, as claimed, since rotary driers can also be used as rotary "humidifiers", as is reflected in the DeLemme reference.

Regarding claim 13, one having ordinary skill in the art would have optimized the application amount/location of moisture, through routine experimentation, in order to ensure complete and thorough humidification of the treated material.

Regarding claim, 14, one having ordinary skill in the art would have delivered to the material liquid in the form of atomized droplets, since this is conventionally the form in which liquid substances are delivered to material to be humidified, i.e. from a nozzle/sprayer.

Regarding claim 17, it would have been obvious to one having ordinary skill in the art at the time of the invention to operate each cylinder with separate drives in order to permit variances in rotational speeds, if desired, in order to affect the quantity of moisture in the treated material.

Regarding claim 18-19, it would have been obvious to correlate the rotational speeds/directions of the cylinders so that they are the same after routine experimentation to determine the optimal speeds of both drums in effectively humidifying material.

Regarding claim 20, absent any statements to the contrary, it is presumed that in the method of LaFeuille modified by DeLemme, the treated material is conveyed from the inlet to the outlet ends of the drum due to a slight decline in the apparatus, i.e. via gravity. However, in the alternative, this would have been an obvious feature of the method of the combined references in order to effectively advance the conveying of treated material and, hence, the treatment of same.

Response to Arguments

3. Applicant's arguments filed on July 14th, 2003 have been fully considered but they are not persuasive.

- Applicant argues that the modification of the LaFeuille reference would change the principle of operation of LaFeuille's invention and, therefore, the teachings of the LaFeuille and DeLemme references are not sufficient to render the claimed method "prima facie" obvious. However, the Examiner disagrees. The Examiner contends that the DeLemme reference is used solely for the purpose of teaching the concept that rotary drying apparatuses can also be used to condition material, in general, and not merely just to dry the material. While the LaFeuille reference may disclose a rotary dryer used for drying material subjected therein, this would not have prevented one having ordinary skill from utilizing the same device for conditioning material, since as taught in DeLemme, rotary drying machines can also be used for humidifying materials (See page 1, lines 19-22). Therefore, with this teaching in mind, one having ordinary skill in the art would have been motivated to use the apparatus of LaFeuille in a process of conditioning/humidifying a material since use of rotary drying apparatuses for this purpose is known – as evidenced by the DeLemme disclosure. In other words, the operation of the LaFeuille reference involves a fluid (i.e. hot gas) to be delivered to the material to be conditioned. The Examiner posits that an obvious modification of the LaFeuille device would be to deliver another type of fluid (i.e. atomized liquid) to condition the material, since the concept of using a rotary apparatus equipped with a treating fluid to dry or humidify materials is known in the art.

With respect to any remaining arguments, the Examiner believes that these are adequately addressed in the above prior art rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Application/Control Number: 09/853,589
Art Unit: 1731

Page 6

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



Dionne A. Walls
September 19, 2003